

U. S. Office of Education.  
" Bulletin ...

# **LAND- GRANT Colleges & Universities**

**What They Are and The  
Relations of the Federal  
Government to Them**

**Bulletin 1951, No. 15**

**FEDERAL SECURITY AGENCY**

**Oscar R. Ewing, Administrator**

**Office of Education**

**Earl James McGrath, Commissioner**

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## Foreword

THE LAND-GRANT COLLEGES and universities in the United States are the result of a partnership of the States and the Federal Government. They represent an effort to provide a type of higher education within the reach of, and adapted to the needs of, the agricultural and industrial people of this country. They have played a very important part in democratizing higher education and they continue to demonstrate the value both to the individual and to society of a type of higher education which is of high quality, yet practical.

In organization, the land-grant colleges and universities exemplify better than most other institutions the most effective relationship among research, campus instruction, and adult education. Each land-grant college or university maintains an agricultural experiment station to aid in solving the problems arising on the farms. It enriches its campus instruction in agriculture with the results of its research. It maintains an extension or adult education service to carry out to farmers and their families the latest information. This is a truly effective set-up which is reflected in the remarkable agricultural development which has occurred in the last 60 years throughout the United States.

The Federal Security Agency through the Office of Education administers the Federal funds for campus instruction. This bulletin is one of the series issued periodically to make available texts of the laws and rulings under which the Agency operates. It replaces Pamphlet No. 91 issued in 1940.

EARL JAMES MCGRATH,  
*U. S. Commissioner of Education.*

Washington: U. S. Government Printing Office, 1951

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## Section I

### What They Are

THE QUESTION is frequently asked, "What are the land-grant colleges and universities?"

To answer it, the following statement is made.

In the Colonial days higher education in this country was available only in a few institutions, such as Harvard, Yale, and William and Mary. These institutions at different times were subject to varying degrees of public control, but were essentially privately controlled. After the Revolutionary War the States began to organize universities as publicly controlled institutions. They were not essentially different from the privately controlled ones which by that time had grown relatively strong and were setting the pace for the development of collegiate education throughout the country.

During the first half of the nineteenth century the two types of colleges and universities, publicly controlled and privately controlled, developed side by side. Both were greatly influenced naturally by the European universities of which their leading professors were commonly products. But these European universities were organized to serve a society not predominantly democratic. University education was for the leisure classes, the government leaders, and members of the professions.

The American institutions, functioning in somewhat the same fashion, maintained chiefly the classical and professional curricula. They made only slight adaptations to the needs of a pioneer people. A study of such fields as agriculture and the mechanic arts was beneath their academic dignity.

The mild protest against this too exclusively classical type of college and university, grew into a widespread agitation by the middle of the nineteenth century. Agricultural societies in many States were insisting that there must be available colleges where agriculture could be studied. The already established colleges and universities remained largely uninfluenced, however, by this agi-

tation. Hence, during the 1850's the Congress debated the issue and finally passed the Morrill Act in 1859. President Buchanan vetoed it essentially on the ground that it was in violation of the traditional policy of the Federal Government which had up to that time left the control of education to the States. In 1862 the Morrill Act was again passed and was signed by President Lincoln.

The fundamental purpose of the Morrill Act (see Sec. III for text of the Act) was to insure the development in each State of at least one college adapted to the educational needs of the agricultural and industrial classes. Without too much regard to the academic traditions which largely controlled the colleges and universities of the time, these new institutions to be known as land-grant colleges, were to afford a type of education which would foster the development of agriculture and the mechanic arts. Each State was left to decide whether this new college should be made a part of an already existing institution (commonly the State university) or whether it should be a completely separate institution. By the time all of the present 48 States were admitted into the Union, more than a score of States had developed both a State university and a land-grant college or university on separate campuses, usually under separate boards of control. A number of States which established separate land-grant institutions have in recent decades joined their State universities and their land-grant colleges or universities under single boards in their efforts to coordinate the programs of the two institutions in a given State. A few States, notably New York, New Jersey, Delaware, and Pennsylvania, utilize as land-grant institutions, universities with varying degrees of private control.

Thus has grown up a system of colleges and universities managed by each State but conforming to certain broad policy stipulations of Federal law. The Federal support contemplated in the initial Morrill Act was to be the income from public lands (30,000 acres for each Representative and Senator in Congress or equivalent in scrip) made available in each State. The State was expected to contribute to the maintenance of its land-grant institution as well as to provide its buildings.

From this modest beginning the Federal Government has expanded its contributions to the land-grant colleges and universities. Recognizing the need for research as a basis for developing agriculture, the Congress passed the Hatch Act in 1887 setting up in the land-grant institutions the system of agricultural experiment stations. In 1890 the second Morrill Act was passed supplementing by direct appropriation the income from the land-grants



for instruction. In 1914 the Smith-Lever Act was passed establishing the system of cooperative extension services to bring to adults the benefits of current developments in the field of agriculture. Thus, over a period of little more than half a century these institutions, designed to foster a program of education suited to the needs of the agricultural and industrial classes, had been established on a foundation of research, and encompassed a program for both the youth on the campus and the adult population throughout the rural areas of the State.

Throughout recent decades numerous acts have been passed expanding the scope and increasing the support of all three aspects of their programs—research, campus instruction, and extension education. Now in addition to the income from the original land-grants the appropriations of Federal funds to aid the States in the maintenance of the land-grant institutions amount to more than \$40,000,000 annually. Of this the amounts for the year ending June 30, 1951 were: For campus instruction, \$5,030,000; for experiment stations, \$12,266,208; and for extension education, \$32,174,388.

These funds are distributed to the States on a variety of bases. Some funds go in equal amounts to all States, some to the States on the basis of their farm populations, etc. The funds for campus instruction are distributed and administered by the Federal Security Agency, Office of Education. The funds for experiment stations and extension education are distributed and administered by the U. S. Department of Agriculture.

In the Morrill Act of 1890 the Congress included a clause requiring that land-grant colleges make no distinction of race or color in its admission requirements. The law permitted a State in satisfaction of the foregoing stipulation to maintain one college for white students and one college for Negro students, and authorized the legislature of such State to propose to the Secretary of the Interior<sup>1</sup> a just and equitable division of the fund between the two colleges. In consequence of this authorization, 17 of the States now maintain separate land-grant colleges for Negroes. Thus, there are now 1 land-grant institution in each of the 48 States and the 3 territories (Alaska, Hawaii, and Puerto Rico), a second institution in Massachusetts, and 17 separate colleges for Negroes, a total of 69.

It is not easy to appraise in brief space the services of these land-grant institutions. They have broadened the base of higher

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<sup>1</sup> The Office of Education was part of the Department of the Interior at that time.

education bringing it within the interest and attainment of vastly larger numbers of people than would otherwise have been reached. The whole realm of higher education in this country, and to a lesser degree even in some other countries, has been profoundly influenced by the developments of the land-grant colleges and universities in popularizing higher education. They have demonstrated the partnership of the Federal and State Governments in the maintenance of a system of higher education which is designed to fulfill Federal, State and local needs. They have spread widely the concept that higher education is something in which all the people have a stake. They have, therefore, a place of deep affection in the hearts of the people. They are growing in strength and influence with each passing decade.

## Section II

### Procedures for Administering Federal Funds for Instruction

AS PREVIOUSLY STATED, the funds for instruction are administered by the Federal Security Agency, Office of Education, and the funds for experiment stations and extension services by the U. S. Department of Agriculture. The following paragraphs will be concerned only with the funds for instruction on the campus.

Federal funds from two sources are used to help the States maintain instruction on the campus. First, the income from the original land grants or scrip (and in some States from subsequent land grants). This income now amounts to about 2 million dollars per year. While about a third of the States still have some of the original land remaining unsold, more than four-fifths of the annual land-grant income is derived from investments of the sums received from the sale of the land or scrip.

The income from the original grants differs widely in amount among the States. Minnesota derives more than half a million dollars annually, while several States derive less than two



thousand dollars. Only three States derive more than one hundred thousand dollars a year.

The handling of these funds is left to the States, subject to the conditions prescribed in Section 5 of the 1862 Act. (See Sec. III for text of the law.) Reports concerning the condition of the fund and the annual income derived are received each year by the Federal Security Agency, Office of Education.

The second source of Federal aid for instruction is the so-called supplementary Morrill Funds for which the Federal Government appropriates \$5,030,000, annually. By the second Morrill Act of 1890, each State and the territories of Alaska, Hawaii, and Puerto Rico, receive \$25,000. A like amount is provided by the Nelson amendment of 1907. By Section 22 of the Bankhead-Jones Act of 1935, an additional \$20,000 was provided for each State and the territory of Hawaii, plus variable amounts from a total of \$1,500,000 distributed on the basis of population. The 1890 and 1907 acts are "continuing" appropriations, requiring no congressional action each year. The 1935 act authorizes appropriations which Congress must act upon each year.

The procedure followed involves the following steps:

1. In the annual budget submitted by the Federal Security Agency, items are included covering both the continuing appropriation and the appropriation requiring congressional action.
2. After the budget is acted upon by the Congress, the Federal Security Administrator submits to the Secretary of the Treasury a certificate indicating the amount to which each State is entitled and the name of the officer or officers in each State to which the check or checks should be sent.
3. The Secretary of the Treasury sends not later than July 31, the checks for funds for the fiscal year ending on the following June 30.

The expenditure of these funds by each land-grant college or university is subject to the conditions appearing in the acts of 1890 and 1907. The principal limitation is that the fund must be used for teachers' salaries and/or teaching supplies. The departments of instruction to be aided are limited to agriculture, mechanic arts, English language, mathematics, natural and physical science, economic science, and teacher training.

Since these funds constitute such a small fraction of the amount used for instruction in the institution, this limitation is of little significance. Each institution utilizes teachers paid from

other funds side by side with those paid wholly or in part from Federal funds. The objective of the Act in 1890 was to assure the support of departments believed to be essential for an institution maintained under the provisions of the 1862 Act.

At the close of each year each institution submits to the Office of Education on forms provided by the Office, a report certified to by the treasurer and the president of the institution. This report indicates the amount of the funds spent for salaries and for teaching facilities in each of the allowed departments.

Allotments to the several States for the year 1951-52 follow:

Federal Annual Appropriations<sup>1</sup> for Instruction at  
Land-grant Colleges and Universities

State	Variable grants	Total grants	State	Variable grants	Total grants
Alabama <sup>2</sup> .....	\$30,537.02	\$100,537.02	Nebraska.....	\$13,220.29	\$ 83,220.29
Alaska <sup>3</sup> .....		50,000.00	Nevada.....	1,596.63	71,596.63
Arizona.....	7,476.18	77,476.18	New Hampshire.....	5,318.42	75,318.42
Arkansas <sup>2</sup> .....	19,044.96	89,044.96	New Jersey.....	48,226.30	118,226.30
California.....	105,584.21	175,584.21	New Mexico.....	6,793.98	76,793.98
Colorado.....	13,216.09	83,216.09	New York.....	147,912.44	217,912.44
Connecticut.....	20,020.08	90,020.08	North Carolina <sup>2</sup> .....	40,512.61	110,512.61
Delaware <sup>2</sup> .....	3,172.50	73,172.50	North Dakota.....	6,180.09	76,180.09
Florida <sup>2</sup> .....	27,640.27	97,640.27	Ohio.....	79,257.57	149,257.57
Georgia <sup>2</sup> .....	34,355.32	104,355.32	Oklahoma <sup>2</sup> .....	22,274.86	92,274.86
Hawaii.....	4,984.81	74,984.81	Oregon.....	15,173.46	85,173.46
Idaho.....	5,870.91	75,870.91	Pennsylvania.....	104,704.41	174,704.41
Illinois.....	86,892.96	156,892.96	Puerto Rico <sup>2</sup> .....		50,000.00
Indiana.....	39,288.92	109,288.92	Rhode Island.....	7,898.16	77,898.16
Iowa.....	26,141.89	96,141.89	South Carolina <sup>2</sup> .....	21,114.67	91,114.67
Kansas.....	19,002.95	89,002.95	South Dakota.....	6,510.26	76,510.26
Kentucky <sup>2</sup> .....	29,370.72	99,370.72	Tennessee <sup>2</sup> .....	32,830.73	102,830.73
Louisiana <sup>2</sup> .....	26,764.68	96,764.68	Texas <sup>2</sup> .....	76,909.42	146,909.42
Maine.....	9,113.74	79,113.74	Utah.....	6,870.53	76,870.53
Maryland.....	23,368.48	93,368.48	Vermont.....	3,767.55	73,767.55
Massachusetts.....	46,781.95	116,781.95	Virginia <sup>2</sup> .....	33,099.64	103,099.64
Michigan.....	63,550.32	133,550.32	Washington.....	23,727.15	93,727.15
Minnesota.....	29,746.50	99,746.50	West Virginia <sup>2</sup> .....	20,002.85	90,002.85
Mississippi <sup>2</sup> .....	21,731.92	91,731.92	Wisconsin.....	34,255.55	104,255.55
Missouri <sup>2</sup> .....	39,442.67	109,442.67	Wyoming.....	2,897.66	72,897.66
Montana.....	5,894.72	75,894.72	<b>TOTAL.....</b>	<b>\$1,500,000.00</b>	<b>\$5,030,000.00</b>

Variable grants from Bankhead-Jones Act as indicated in this tabulation, being a distribution of \$1,500,000 on basis of population, 1950.

The Second Morrill Act and the Nelson Amendment make continuing appropriations. The Bankhead-Jones Act authorizes appropriations; the appropriations are made annually by the Congress.

<sup>1</sup> Uniform grants to each State from Second Morrill Act, 1890, (\$25,000); Nelson Amendment, 1907, (\$25,000); and uniform State grant from Bankhead-Jones Act, 1935, (\$20,000); total for each State, \$70,000.

<sup>2</sup> The Negro land-grant college in this State receives a stipulated proportion of funds.

<sup>3</sup> Alaska and Puerto Rico do not participate in appropriations authorized by the Bankhead-Jones Act of June 20, 1935.



### Section III

## Federal Laws and Rulings Relating to Federal Funds for Instruction for Land-Grant Colleges and Universities

FROM THE PASSAGE of the Morrill Act in 1862 to July 1, 1939, the administration of Federal funds for instruction in the land-grant colleges and universities was carried on by the Department of the Interior. By the Reorganization Act of April 3, 1939, and the President's Reorganization Plan of April 25, 1939, effective July 1, 1939, the Office of Education was transferred from the Department of the Interior to the Federal Security Agency. All the functions of the Secretary of the Interior relating to the administration of the Office of Education were transferred to the Federal Security Administrator. Hence, the legal authority for the administration of the Morrill Act of 1862 and its several amendments and supplements appropriating funds for instruction rests with the Federal Security Administrator. He exercises this authority through the United States Commissioner of Education and the Specialist for Land-Grant Colleges and Universities in the Office of Education.

### Act of July 2, 1862 (First Morrill Act)

[Providing for the Endowment, Support and Maintenance of Colleges of Agriculture and Mechanic Arts]

[AN ACT Donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts]

*Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That there be granted to the several States, for the purposes hereinafter mentioned, an amount of public land, to be apportioned to each State a quantity equal to thirty thousand acres for each Senator and Representative in Congress to which the States are respectively entitled by the apportionment under the census of 1860: Provided, That no mineral lands shall be selected or purchased under the provisions of this act.*



SEC. 2. *And be it further enacted*, That the land aforesaid, after being surveyed, shall be apportioned to the several States in sections or subdivisions of sections, not less than one-quarter of a section; and wherever there are public lands in a State, subject to sale at private entry at one dollar and twenty-five cents per acre, the quantity to which said State shall be entitled shall be selected from such lands, within the limits of such State; and the Secretary of the Interior is hereby directed to issue to each of the States, in which there is not the quantity of public lands subject to sale at private entry, at one dollar and twenty-five cents per acre, to which said State may be entitled under the provisions of this act, land scrip to the amount in acres for the deficiency of its distributive share; said scrip to be sold by said States, and the proceeds thereof applied to the uses and purposes prescribed in this act, and for no other purpose whatsoever: *Provided*, That in no case shall any State to which land scrip may thus be issued be allowed to locate the same within the limits of any other State, or of any territory of the United States; but their assignees may thus locate said land scrip upon any of the unappropriated lands of the United States subject to sale at private entry, at one dollar and twenty-five cents, or less, an acre: *And provided further*, That not more than one million acres shall be located by such assignees in any one of the States: *And provided further*, That no such location shall be made before one year from the passage of this act.

SEC. 3. *And be it further enacted*, That all the expenses of management, superintendence, and taxes from date of selection of said lands, previous to their sales, and all expenses incurred in the management and disbursement of moneys which may be received therefrom, shall be paid by the States to which they may belong, out of the treasury of said States, so that the entire proceeds of the sale of said lands shall be applied, without any diminution whatever, to the purposes hereinafter mentioned.

SEC. 4 (as amended April 13, 1926, 44 Stat. L. 247). That all moneys derived from the sale of lands aforesaid by the States to which lands are apportioned and from the sales of land scrip hereinbefore provided for shall be invested in bonds of the United States or of the States or some other safe bonds; or the same may be invested by the States having no State bonds in any manner after the legislatures of such States shall have assented thereto and engaged that such funds shall yield a fair and reasonable rate of return, to be fixed by the State legislatures, and that the principal thereof shall forever remain unimpaired: *Provided*, That the moneys so invested or loaned shall constitute a perpetual fund, the capital of which shall remain forever undiminished (except so far as may be provided in section 5 of this act), and the interest of which shall be inviolably appropriated, by each State which may take and claim the benefit of this act, to the endowment, support, and maintenance of at least one college where the leading object shall be, without excluding other scientific and classical studies and including military tactics, to teach such branches of learning as are related to agriculture and the mechanic arts, in such manner as the legislatures of the States may respectively prescribe, in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions in life.

SEC. 5. *And be it further enacted*, That the grant of land and land scrip hereby authorized shall be made on the following conditions, to which, as



well as to the provisions hereinbefore contained, the previous assent of the several States shall be signified by legislative acts:

*First.* If any portion of the fund invested, as provided by the foregoing section, or any portion of the interest thereon, shall, by any action or contingency, be diminished or lost, it shall be replaced by the State to which it belongs, so that the capital of the fund shall remain forever undiminished; and the annual interest shall be regularly applied without diminution to the purposes mentioned in the fourth section of this act, except that a sum, not exceeding 10 per centum upon the amount received by any State under the provisions of this act, may be expended for the purchase of lands for sites or experimental farms, whenever authorized by the respective legislatures of said States;

*Second.* No portion of said fund, nor the interest thereon, shall be applied, directly or indirectly, under any pretense whatever, to the purchase, erection, preservation, or repair of any building or buildings;

*Third.* Any State which may take and claim the benefit of the provisions of this act shall provide, within five years, at least not less than one college, as prescribed in the fourth section of this act, or the grant to such State shall cease; and said State shall be bound to pay the United States the amount received of any lands previously sold, and that the title to purchasers under the State shall be valid;

*Fourth.* An annual report shall be made regarding the progress of each college, recording any improvements and experiments made, with their costs and results, and such other matters, including State industrial and economical statistics, as may be supposed useful; one copy of which shall be transmitted by mail free, by each, to all the other colleges which may be endowed under the provisions of this act, and also one copy to the Secretary of the Interior;

*Fifth.* When lands shall be selected from those which have been raised to double the minimum price in consequence of railroad grants, they shall be computed to the States at the maximum price, and the number of acres proportionally diminished;

*Sixth.* No State, while in a condition of rebellion or insurrection against the Government of the United States, shall be entitled to the benefit of this act;

*Seventh.* No State shall be entitled to the benefits of this act unless it shall express its acceptance thereof by its legislature within two years from the date of its approval by the President.

**SEC. 6.** *And be it further enacted,* That land scrip issued under the provisions of this act shall not be subject to location until after the first day of January, 1863.

**SEC. 7.** *And be it further enacted,* That land officers shall receive the same fees for locating land scrip issued under the provisions of this act as is now allowed for the location of military bounty land warrants under existing laws: *Provided,* That maximum compensation shall not be thereby increased.

SEC. 8. *And be it further enacted*, That the governors of the several States to which scrip shall be issued under this act shall be required to report annually to Congress all sales made of such scrip until the whole shall be disposed of, the amount received for the same, and what appropriation has been made of the proceeds.

Approved, July 2, 1862. (12 Stat. 503.)

### Act of 1866 Amending First Morrill Act

[Providing for the Extension of Time Within Which States May Accept Provisions of First Morrill Act]

AN ACT To amend the fifth section of an act entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July 2, 1862, so as to extend the time within which the provisions of said act shall be accepted and such colleges established.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the time in which the several States may comply with the provisions of the act of July second, eighteen hundred and sixty-two, entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," is hereby extended so that the acceptance of the benefits of the said act may be expressed within three years from the passage of this act, and the colleges required by the said act may be provided within five years from the date of the filing of such acceptance with the Commissioner of the General Land Office: *Provided*, That when any Territory shall become a State and be admitted into the Union such new States shall be entitled to the benefits of the said act of July second, eighteen hundred and sixty-two, by expressing the acceptance therein required within three years from the date of its admission into the Union, and providing the college or colleges within five years after such acceptance, as prescribed in this act: *Provided further*, That any State which has heretofore expressed its acceptance of the act herein referred to shall have the period of five years within which to provide at least one college as described in the fourth section of said act, after the time for providing said college, according to the act of July second, eighteen hundred and sixty-two, shall have expired.

Approved, July 23, 1866. (14 Stat. 208.)

### Digest of Rulings and Opinions on Act of July 2, 1862

*Accounting and reports.*—"Accounts should be kept by the proper officers" of all the States having grants "showing all the facts relating to the sale and leasing of lands granted for agricultural colleges, and the receipt, investment, and disposition of the proceeds arising from such sales and leases; and such officers should, when called on to do so, timely report such facts to the Secretary of the Interior or permit an ascertainment of such facts through inspection and examination of their records by some officer of the Government or other person designated by the Secretary of the Interior for that purpose."

The representatives of the Office of Education or some other officer desig-



nated by the Secretary of the Interior should, through reports from the officers of each of the States, or otherwise, from time to time as the occasion may require, ascertain all facts and conditions tending to show the manner in which the funds arising from the lands granted for agricultural colleges are being handled, invested, and disposed of; or furnish a full statement thereof to the Secretary of the Interior.—*Rulings approved by the Secretary of the Interior, October 11, 1923.*

In order that the Department of the Interior through the Commissioner of Education may be able to ascertain whether or not the States are complying with the provisions of the act of 1862, the institutions receiving the benefit of that act are required to submit a statement of the disbursements of the annual income received by them under said act.—*Ruling of Secretary of the Interior, July 11, 1930.*

*Division of fund.*—"A State may by appropriate legislation divide the original" 1862 land-grant "fund into two parts and provide that the interest of each part shall be available to a particular college and vest in such college, as an agency of the State, the duty of investing its particular part of the funds in bonds of the United States or of the State or some other safe bonds, the determination of the safety of which is to rest with the college."—*Ruling of Secretary of the Interior, September 13, 1935.*

*Income and its use.*—"The income" from the 1862 land-grant endowment "is not a fiscal year or limited fund. It must remain forever at the disposal of the institution entitled to the benefit of the fund. Nor may it ever be covered into the general State funds or used for general State purposes. There can be no default to the State by the institution."

"Proceeds from rentals, sale of timber rights, water rights, and other privileges, and interest on deferred payments of purchase money partake of the same character as the income from invested funds, and must be devoted, without diminution, to the purposes" of the act.

"The only restriction placed by the act of Congress of July 2, 1862, upon the expenditures of the income derived from the sale of public lands granted for the endowment of colleges of agriculture and the mechanic arts and the investment of the purchase money is that no part of such income may be expended for the purchase, erection, preservation, or repair of any building or buildings, nor may this income be used for the purchase of land."—*Rulings of Secretary of the Interior, May 23, 1916.*

*Instruction for women students.*—Instruction in the industries for women is included in instruction in agriculture and mechanic arts.—*Ruling of Secretary of the Interior, May 23, 1916.*

*Military tactics.*—An agricultural college which offers a proper, substantial course in military tactics complies sufficiently with the requirements as to military tactics in the act of July 2, 1862, and the other acts, even though the students at that institution are not compelled to take that course.—*Opinion of Attorney General, June 30, 1930.*

*Default of act of 1862.*—The act of 1890 (26 Stat. 417) with the amendment of 1907 (34 Stat. 1281) is supplementary to the act of 1862; therefore any default of the provisions of the act of 1862 renders the State liable for non-certification for the annual installments of the funds appropriated by the acts of 1890 and 1907.—*Ruling of Secretary of the Interior, May 23, 1916.*



## Act of August 30, 1890 (Second Morrill Act)

[Providing for the Further Endowment and Support of Colleges of Agriculture and Mechanic Arts]

[AN ACT To apply a portion of the proceeds of the public lands to the more complete endowment and support of the colleges for the benefit of agriculture and the mechanic arts established under the provisions of an act of Congress approved July second, eighteen hundred and sixty-two]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That there shall be, and hereby is, annually appropriated, out of any money in the Treasury not otherwise appropriated, arising from the sale of public lands, to be paid as hereinafter provided, to each State and Territory for the more complete endowment and maintenance of colleges for the benefit of agriculture and the mechanic arts now established, or which may be hereafter established, in accordance with an act of Congress approved July second, eighteen hundred and sixty-two, the sum of fifteen thousand dollars for the year ending June thirtieth, eighteen hundred and ninety, and an annual increase of the amount of such appropriation thereafter for ten years by an additional sum of one thousand dollars over the preceding year, and the annual amount to be paid thereafter to each State and Territory shall be twenty-five thousand dollars to be applied only to instruction in agriculture, the mechanic arts, the English language and the various branches of mathematical, physical, natural, and economic science, with special reference to their applications in the industries of life, and to the facilities for such instruction: *Provided,* That no money shall be paid out under this act to any State or Territory for the support and maintenance of a college where a distinction of race or color is made in the admission of students, but the establishment and maintenance of such colleges separately for white and colored students shall be held to be a compliance with the provisions of this act if the funds received in such State or Territory be equitably divided as hereinafter set forth: *Provided,* That in any State in which there has been one college established in pursuance of the act of July second, eighteen hundred and sixty-two, and also in which an educational institution of like character has been established, or may be hereafter established, and is now aided by such State from its own revenue, for the education of colored students in agriculture and the mechanic arts, however named or styled, or whether or not it has received money heretofore under the act to which this act is an amendment, the legislature of such a State may propose and report to the Secretary of the Interior a just and equitable division of the fund to be received under this act between one college for white students and one institution for colored students established as aforesaid, which shall be divided into two parts and paid accordingly, and thereupon such institution for colored students shall be entitled to the benefits of this act and subject to its provisions, as much as it would have been if it had been included under the act of eighteen hundred and sixty-two, and the fulfillment of the foregoing provisions shall be taken as a compliance with the provision in reference to separate colleges for white and colored students.

SEC. 2. That the sums hereby appropriated to the States and Territories for the further endowment and support of colleges shall be annually paid on or before the thirty-first day of July of each year, by the Secretary of the



Treasury, upon the warrant of the Secretary of the Interior, out of the Treasury of the United States, to the State or Territorial treasurer, or to such officer as shall be designated by the laws of such State or Territory to receive the same, who shall, upon the order of the trustees of the college, or the institution for colored students, immediately pay over said sums to the treasurers of the respective colleges or other institutions entitled to receive the same, and such treasurers<sup>1</sup> shall be required to report to the Secretary of Agriculture and to the Secretary of the Interior, on or before the first day of September of each year, a detailed statement of the amount so received and of its disbursement. The grants of moneys authorized by this act are made subject to the legislative assent of the several States and Territories to the purpose of said grants: *Provided*, That payments of such installments of the appropriation herein made as shall become due to any State before the adjournment of the regular session of legislature meeting next after the passage of this act shall be made upon the assent of the governor thereof, duly certified to the Secretary of the Treasury.

SEC. 3. That if any portion of the moneys received by the designated officer of the State or Territory for the further and more complete endowment, support, and maintenance of colleges, or of institutions for colored students, as provided in this act, shall, by any action or contingency, be diminished or lost, or be misapplied, it shall be replaced by the State or Territory to which it belongs, and until so replaced no subsequent appropriation shall be apportioned or paid to such State or Territory; and no portion of said moneys shall be applied, directly or indirectly, under any pretense whatever, to the purchase, erection, preservation, or repair of any building or buildings. An annual report by the president of each of said colleges shall be made to the Secretary of Agriculture, as well as to the Secretary of the Interior, regarding the condition and progress of each college, including statistical information in relation to its receipts and expenditures, its library, the number of its students and professors, and also as to any improvements and experiments made under the direction of any experiment stations attached to said colleges, with their costs and results, and such other industrial and economical statistics as may be regarded as useful, one copy of which shall be transmitted by mail free to all other colleges further endowed under this act.

SEC. 4. That on or before the first day of July in each year, after the passage of this act, the Secretary of the Interior shall ascertain and certify to the Secretary of the Treasury as to each State and Territory whether it is entitled to receive its share of the annual appropriation for colleges, or of institutions for colored students, under this act, and the amount which thereupon each is entitled, respectively, to receive. If the Secretary of the Interior shall withhold a certificate from any State or Territory of its appropriation, the facts and reasons therefor shall be reported to the President, and the amount involved shall be kept separate in the Treasury until the close of the next Congress, in order that the State or Territory may, if it should so desire, appeal to Congress from the determination of the Secretary of the Interior. If the next Congress shall not direct such sum to be paid, it shall be covered into the Treasury. And the Secretary of the Interior is hereby charged with the proper administration of this law.

<sup>1</sup> Treasurers of the respective colleges, not State treasurers. (Ruling October 19, 1917.)



SEC. 5. That the Secretary of the Interior shall annually report to Congress the disbursements which have been made in all the States and Territories, and also whether the appropriation of any State or Territory has been withheld, and if so, the reasons therefor.

SEC. 6. Congress may at any time amend, suspend, or repeal any or all of the provisions of this act.

Approved, August 30, 1890. (26 Stat. 417.)

### Nelson Amendment of March 4, 1907

[Providing for the More Complete Endowment and Maintenance of Land-Grant Colleges]

[Extract from an act making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and eight]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.*

That there shall be, and hereby is, annually appropriated, out of any money in the Treasury not otherwise appropriated, to be paid as hereinafter provided, to each State and Territory for the more complete endowment and maintenance of agricultural colleges now established, or which may hereafter be established, in accordance with the act of Congress approved July second, eighteen hundred and sixty-two, and the act of Congress approved August thirtieth, eighteen hundred and ninety, the sum of five thousand dollars, in addition to the sums named in said act for the fiscal year ending June thirtieth, nineteen hundred and eight, and an annual increase of the amount of such appropriation thereafter for four years by an additional sum of five thousand dollars over the preceding year, and the annual sum to be paid thereafter to each State and Territory shall be fifty thousand dollars, to be applied only for the purposes of the agricultural colleges as defined and limited in the act of Congress approved July second, eighteen hundred and sixty-two, and the act of Congress approved August thirtieth, eighteen hundred and ninety.

That the sum hereby appropriated to the States and Territories for the further endowment and support of the colleges shall be paid by, to, and in the manner prescribed by the act of Congress approved August thirtieth, eighteen hundred and ninety, entitled "An act to apply a portion of the proceeds of the public lands to the more complete endowment and support of the colleges for the benefit of agriculture and the mechanic arts established under the provisions of the act of Congress approved July second, eighteen hundred and sixty-two," and the expenditure of the said money shall be governed in all respects by the provisions of the said act of Congress approved July second, eighteen hundred and sixty-two, and the said act of Congress approved August thirtieth, eighteen hundred and ninety: *Provided*, That said colleges may use a portion of this money for providing courses for the special preparation of instructors for teaching the elements of agriculture and the mechanic arts.

Approved, March 4, 1907. (34 Stat. L. 1281.)

Digest of Rulings and Opinions on Acts of August 30, 1890, and  
March 4, 1907

*Time limit on expenditure of funds.*—"The moneys appropriated by the act of August 30, 1890" are "in the nature of an annuity to be used from year to year" and cannot be "accumulated or converted into an interest-bearing fund."—*Decision of Attorney General, June 20, 1899.*

The Department will insist on the expenditure of substantially the entire amount appropriated by the act of August 30, 1890, and the boards of control of agricultural and mechanic arts colleges are requested to make provision for such expenditures. It is understood of course that contracts may be entered into for educational material, which, for good reasons, may not be ready and paid for until the following year. In such cases it is sufficient to explain by a note in the annual report that the balance is held for the purpose of liquidating bills already incurred, and stating the nature of the outstanding contracts.—*Ruling of the Secretary of the Interior, December 7, 1900.*

*Accrued interest on appropriations.*—"Interest accruing upon funds" under the acts of August 30, 1890, and March 4, 1907, "is interest accruing to the United States and should be covered into the United States Treasury as miscellaneous receipts." The funds in question should be deposited by the treasurers of the institutions "in banks as custodians for funds of the United States and any interest accruing thereon should be for disposition as herein indicated."—*Opinion of Comptroller General of United States, January 16, 1933.*

Accrued interest must be accounted for and covered into the United States Treasury at the close, June 30, of each fiscal year. The funds must be kept in a deposit account separate from all other funds. The person duly designated to receive the funds is responsible for the accounting of such interest as may be credited to the deposit account by the bank in which the deposit account is maintained. Checks covering interest accrued for each fiscal year should be mailed with the annual reports and will be forwarded to the Treasurer of the United States as miscellaneous receipts.—*Ruling of Secretary of the Interior, June 5, 1933.*

In the light of decisions of the Comptroller General addressed to the Secretary of Agriculture dated January 16, 1933, and March 27, 1933, the Commissioner of Education has ruled as follows with respect to the Morrill-Nelson-Bankhead-Jones funds:

It will not be necessary, therefore, to require that separate bank deposit accounts be maintained for Morrill-Nelson and Bankhead-Jones funds, provided interest is not paid on funds deposited in bank for land-grant college or university. However, if interest is paid on funds on deposit in bank for the college or university, it will be necessary to require that separate bank accounts for Morrill-Nelson and Bankhead-Jones funds be maintained as heretofore.—*Letter of the U. S. Commissioner of Education to Presidents and Treasurers of Land-grant Colleges and Universities, October 11, 1941.*

*Expenditures of funds for different purposes.*—No part of these funds may be "expended for grounds for building sites" or "for lands for use in the practical training of students in agriculture."—*Opinion of Attorney General, March, 1891.*



Purchases from these funds of "apparatus, machinery, textbooks, reference books, stock and material used in instruction, or for purposes of illustration in connection with any of the branches enumerated" in the act of August 30, 1890, are permissible.—*Ruling of Secretary of the Interior, August 3, 1899.*

In the case of the purchase of "machinery (such as boilers, engines, pumps, etc.) and farm stock, which are made to serve for both instructional and other purposes, the Federal funds may be charged with only an equitable portion of the cost of said machinery and stock."

"Expenditures for permanent improvements to buildings, grounds and farms, such as clearing, draining and fencing lands," are not allowable from these funds.

The funds cannot be expended for "heating or lighting buildings, musical instruments, military equipment, furniture, cases, shelving, desks, blackboards, tables, and lockers."—*Rulings of Secretary of the Interior, November 2, 1911.*

*Use of funds for salaries.*—The "salary of the treasurer" of the college is not "a legitimate charge against the funds" and cannot properly be paid from them.—*Opinion of Attorney General, March 7, 1894.*

"The salaries of purely administrative officers, such as presidents, treasurers, secretaries, bookkeepers, janitors, watchmen, etc., cannot be charged" to these funds, "nor the salaries of other administrative officers, like superintendents, foremen, and matrons, and the wages of unskilled laborers and assistants in shops, laboratories, and fields."

When an administrative officer also gives instruction in any of the branches of study mentioned in the act of August 30, 1890, or when an instructor gives such instruction and also devotes part of his time to giving instruction in branches of study not mentioned in the said act, only a part of such person's salary proportionate to the time devoted to giving instruction in the branches of the study mentioned in said act can be charged to these funds. In the division of the time between instructional and other services, 1 hour of instruction shall be regarded as the equivalent of 2 hours of administrative, supervisory, or experiment station work.

The funds cannot be used for "salaries of instructors in philosophy, psychology, ethics, logic, history, civil government, military science and tactics, and in ancient and modern languages (except English)."—*Rulings of Secretary of the Interior, August 3, 1899, November 2, 1911, and May 23, 1916.*

The funds cannot be used "for the salaries of instructors improperly trained or incompetent for the positions they are supposed to fill; nor may they be used for salaries or expenses of the experiment station staff; nor for instructors employed in research work or in collecting, classifying and arranging specimens, collections or exhibits."—*Ruling of Secretary of the Interior, May 23, 1916.*

*Subjects of instruction allowed.*—In order that greater uniformity in the reports of the treasurers may be obtained in the future, the following classification of subjects that may be included under the several schedules has been prepared, such classification to be adhered to by the treasurers of the various institutions in the preparation of their annual reports:

*A. Instruction in agriculture.*—Agriculture, horticulture, forestry, agronomy, animal husbandry, dairying, veterinary medicine, poultry husbandry, and apiculture.



B. *Instruction in mechanic arts.*—Mechanical engineering, civil engineering, electrical engineering, irrigation engineering, mining engineering, marine engineering, railway engineering, experimental engineering, textile industry, architecture, machine design, mechanical drawing, ceramics, stenography, typewriting, telegraphy, printing, and shopwork.

C. *Instruction in English language.*—English language, English literature, composition, rhetoric, and oratory.

D. *Instruction in mathematical sciences.*—Mathematics, bookkeeping, and astronomy.

E. *Instruction in natural and physical sciences.*—Chemistry, physics, biology, botany, zoology, geology, mineralogy, metallurgy, entomology, physiology, bacteriology, pharmacy, physical geography, and meteorology.

F. *Instruction in economic sciences.*—Political economy, home economics, commercial geography, and sociology.

G. *Special preparation of teachers.*—History of industrial education (with special reference to agriculture, mechanic arts, and home economics); methods of teaching agriculture, mechanic arts, and home economics; special instructions to persons teaching agriculture, mechanic arts, and home economics.—*Rulings of Secretary of the Interior, December 7, 1900, and May 23, 1916.*

Expenditures from the funds provided by the act of March 4, 1907, are not authorized "for general courses in pedagogy, psychology, history of education, and methods of teaching."

No part of the funds received under the provisions of the acts of 1890 and 1907 may be used for any form of extension work, and all instruction must be given at the institutions receiving these funds, except that a reasonable portion of the funds provided by the act of 1907 may be used for the instruction of teachers in agriculture, mechanic arts, and domestic science at summer schools, teachers' institutes, and by correspondence, and in supervising and directing work in these subjects in high schools.—*Rulings of Secretary of the Interior, November 2, 1911, and May 23, 1916.*

The funds cannot be "expended for instruction in the elementary subjects, or their equivalent, included in the first 6 years of the course of study of the public schools of the States in which each institution is located, excepting for students 14 years or over who are devoting at least one-half of their time in industrial subjects as preparatory work in the mechanical trades, industries for women, or agriculture."

All or part of the funds provided by the act of March 4, 1907, may be used "for providing courses for the special preparation of instructors for teaching the elements of agriculture and mechanic arts." It is held that this language authorizes expenditures for instruction in the history of agriculture and industrial education, in methods of teaching agriculture, mechanic arts, and home economics, and also for special aid and supervision given to teachers actively engaged in teaching agriculture, mechanic arts, and home economics in public schools. *Rulings of Secretary of the Interior, May 23, 1916.*

*The board of control of a system of higher education in a State*

*has not the authority to change the designation of the land-grant college from one institution under its jurisdiction to another.*

It is therefore the opinion of this Office that the Administrator may not accept the change in designation of the Negro land-grant college by the Board of Regents of the University of Georgia, but must insist that the Federal grant continue to be available to the Georgia State College until such time as the State legislature may by change of designation redirect the money to the use of another institution.—*Opinion of General Counsel, January 3, 1949.*

*Separate land-grant colleges for Negroes are operated under the provisions of the Morrill Act of 1862*

It is the opinion of this Office that the Negro institutions which receive a part of the Federal funds provided under the Morrill Acts and supplementary legislation (12 Stat. 503; 26 Stat. 417; 34 Stat. 1281; and 49 Stat. 439) are governed by the same legal provisions which govern other land-grant colleges, including the requirement of the Act of July 2, 1862, that military tactics be taught therein. The fact of segregation itself does not affect the designated institution's rights and obligations, and Morrill Act funds are specifically available only to institutions established "in accordance with" the conditions of the 1862 enactment. The legislative history and the recorded interpretations of the Acts also enforce the conclusion that there is no legal basis for a failure to require a substantial course in military tactics to be offered by Negro institutions participating in grants under all or any of the four Acts of Congress noted above.

*Opinion of the General Counsel, Federal Security Agency, July 13, 1949.*

### **Land-Grant Colleges Constituted Depositories of Public Documents by Act of March 1, 1907**

[Clause from an amendment to an act providing for the public printing, binding, and distribution of public documents]

All land-grant colleges shall be constituted as depositories for public documents, subject to the provisions and limitations of the depository laws.—(34 Stat., 1014)

### **Free Mailing Privilege for Annual Reports of Land-Grant Colleges**

[Excerpt from Postal Laws and Regulations of the United States (1924) relating to the free transmission of annual reports of agricultural and mechanic arts colleges]

Postmasters at offices where colleges are established under the provisions of the act of July 2, 1862, shall receive from the officers thereof the reports referred to addressed, one copy each, to such other colleges and to the Secretary of the Interior and the Secretary of Agriculture, and affix to each a penalty label or official envelop of the post office, and forward the same free.



**Bankhead-Jones Act of June 29, 1935**

[Providing for research into basic laws and principles relating to agriculture, further development of cooperative agricultural extension work, and more complete endowment and support of land-grant colleges]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

[NOTE.—Only the section of this act applicable to the Morrill and Supplementary Morrill Funds for land-grant colleges is given.]

SEC. 22. In order to provide for the more complete endowment and support of the colleges in the several States and the Territory of Hawaii entitled to the benefits of the Act entitled "An Act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July 2, 1862, as amended and supplemented (U. S. C., title 7, secs. 301-328; Supp. VII, sec. 304), there are hereby authorized to be appropriated annually, out of any money in the Treasury not otherwise appropriated, the following amounts:

(a) For the fiscal year beginning after the date of the enactment of this Act, and for each fiscal year thereafter, \$980,000; and

(b) For the fiscal year following the first fiscal year for which an appropriation is made in pursuance of paragraph (a) \$500,000, and for each of the two fiscal years thereafter \$500,000 more than the amount authorized to be appropriated for the preceding fiscal year, and for each fiscal year thereafter, \$1,500,000. The sums appropriated in pursuance of paragraph (a) shall be paid annually to the several States and the Territory of Hawaii in equal shares. The sums appropriated in pursuance of paragraph (b) shall be in addition to sums appropriated in pursuance of paragraph (a) and shall be allotted and paid annually to each of the several States and the Territory of Hawaii in the proportion which the total population of each such State and the Territory of Hawaii bears to the total population of all the States and the Territory of Hawaii, as determined by the last preceding decennial census. Sums appropriated in pursuance of this section shall be in addition to sums appropriated or authorized under such Act of July 2, 1862, as amended and supplemented, and shall be applied only for the purposes of the colleges defined in such Act, as amended and supplemented. The provisions of law applicable to the use and payment of sums under the Act entitled "An Act to apply a portion of the proceeds of the public lands to the more complete endowment and support of the colleges for the benefit of agriculture and the mechanic arts established under the provisions of an Act of Congress approved July second, eighteen hundred and sixty-two", approved August 30, 1890, as amended and supplemented, shall apply to the use and payment of sums appropriated in pursuance of this section.

Approved, June 29, 1935.

**Digest of Rulings and Opinions on Act of June 29, 1935**

For the purposes of administration, the funds provided by the Morrill Act of 1890, the Nelson Act of 1907, and Section 22 of the Bankhead-Jones Act of 1935, have been given the designation, "Supplementary Morrill Fund."

—*Ruling of Secretary of the Interior, February 12, 1936.*



*The legislature has no authority to appropriate Supplementary Morrill Funds*

In brief, my opinion, based upon the legislative history of the Act, its long history of administrative interpretation, and upon judicial holdings, is that an appropriation by the State Legislature is neither necessary nor permissible under the acts in question, and that these acts require that the Federal funds be available to the properly designated colleges immediately upon request.—*Opinion of General Counsel, Federal Security Agency, August 3, 1943.*

**Retirement Act of March 4, 1940 (Public Law 422)**

[Providing for aid to the States and Territories in making provisions for the retirement of employees of land-grant colleges]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, pursuant to the recognized obligations of governments to guarantee the social security of their employees in order to provide for the retirement on an annuity, or otherwise, of all persons being paid salaries in whole or in part from grants of Federal funds to the several States and Territories pursuant to the terms of the Act approved July 2, 1862, for the endowment and support of colleges of agriculture and mechanic arts, and Acts supplementary thereto providing for instruction in agriculture and mechanic arts, for the establishment of agricultural experiment stations, and for cooperative extension work in agriculture and home economics, all States and Territories are hereafter authorized, notwithstanding any contrary provisions in said Acts, to withhold from expenditure, from Federal funds advanced under the terms of said Acts, amounts designated as employer contributions to be made by the States and Territories to retirement systems established in accordance with the laws of such States or Territories, or established by the governing boards of colleges of agriculture and mechanic arts in accordance with the authority vested in them, and to deposit such amounts to the credit of such retirement systems for subsequent disbursement in accordance with the terms of the retirement systems in effect in the respective States and territories: *Provided*, That there shall not be deducted from Federal funds and deposited to the credit of retirement accounts as employer contributions, amounts in excess of 5 per centum of that portion of the salaries of employees paid from such Federal funds: *Provided further*, That, for the purpose of making deposits and contributions in retirement systems in favor of any employee, in no event shall the deductions from any Federal fund advanced pursuant to the foregoing Acts be in greater proportion to the total deductions for such employee than the salary received under such Federal funds bears to the total salary from Federal sources: *Provided further*, That the deposits and contributions from funds of Federal origin to any retirement system established by a State or a land-grant college must be at least equaled by the total contributions thereto on the part of the individuals concerned, the State, and the counties: *And provided further*, That no deductions for the foregoing purposes shall be made from Federal funds in support of employees appointed pursuant to the terms of the foregoing acts, whose salaries are paid wholly by the States and Territories; *Provided further*, That the provisions of this*



Act shall not apply to any employee paid in whole or in part from Federal funds who may be subject to the United States Civil Service Retirement Act, as amended.

Approved, March 4, 1940.

### Ruling Concerning Public Law 422

The U. S. Commissioner of Education asked the General Counsel of the Federal Security Agency four questions concerning interpretations of Public Law 422 in its application to Federal funds made available to land-grant colleges and universities for instruction. The questions and the answers are given below.

1. The Act of July 2, 1862, provided for the creation of a perpetual endowment fund for each State derived from the sale of public lands or land scrip granted to the State, the annual income from which is paid to the college. Does the Act apply to the income from the original land-grant endowment fund on the same basis as to annual appropriations of Congress under supplementary acts?

You are advised that the provisions of Public No. 422, 76th Congress, approved March 4, 1940, are equally applicable to the income from the endowment funds established pursuant to the Act of July 2, 1862, and to the Supplementary Morrill Funds provided under the Agricultural College Act of 1890, and your first question is answered in the affirmative.

2. In the enforcement of the provisions of the Act relating to the deposit in retirement systems of amounts deducted from grants of Federal funds, does any responsibility rest on the Federal Security Agency to investigate the actuarial soundness of the retirement systems operated by the States, Territories or Governing Boards of the Colleges? If not, does its responsibilities end upon obtaining the proper guarantee or certification that the deductions from such funds have been correctly deposited in the retirement systems? Similarly, if losses or deficiencies later occur in the fund due to unsound actuarial practices or to other causes, must the State or Territory make good such loss or deficiency as far as it relates to Federal funds?

First, you are advised that the law does not place upon the Federal Security Agency any responsibility or duty for insuring the actuarial soundness of any retirement system to which any part of the Federal funds hereinbefore referred to may be contributed. Neither the Act of March 4, 1940, nor applicable laws expressly fix any such responsibility. Further, the report of the Committee on Agriculture of the House of Representatives relative to this Act states that it is not its purpose to dictate the kind of retirement system to be set up in each State and Territory but leaves the responsibility in State hands." Thus the internal merit of the State plan is placed clearly beyond the scope of this Agency's supervision.

The extent of the responsibility of this Agency may be briefly described as to reasonably assure itself in any case where funds provided to the

several colleges under the 1862 and 1890 Acts, as amended, are deposited in or contributed to a retirement system that the following requirements are fulfilled:

- (1) The retirement system is one duly established pursuant to and under the authority of the State law.
- (2) The funds are contributed to or deposited in such retirement system in accordance with and pursuant to the authority of the State law, and
- (3) The amount so contributed or deposited does not exceed that permitted by Public No. 422, 76th Congress.

It may be here said that, while ordinarily no difficulty is to be anticipated in determining whether the first two of the above requirements are complied with, in any case of reasonable doubt it would be the policy of this Office to accept the determination of the Attorney General of the State in which the question arises.

3. The University of ..... conducting the college of agriculture and mechanic arts for that State has a retirement system authorized by the Governing board and operated through the Teachers Insurance and Annuity Association, 522 Fifth Avenue, New York City, a non-profit organization maintained for the benefit of college teachers. Under it the employees of the university pay 2 percent of their annual salaries into the retirement system. When the system was originally adopted, it was expected that the State would contribute an amount equal to 5 percent of the salaries into the retirement fund. Up to date the State has not found itself in a position to meet this payment, but the employees have continued to pay 2 percent annually into the system. Is the governing board of the University of ..... under this Act permitted to deduct an amount equal to 2 percent of the salaries of employees from grants of Federal funds as an offset to the 2 percent now being paid by the employees?

Assuming that the retirement system authorized by the Governing Board of the University of ..... is one duly established pursuant to and under the authority of State law and that the amounts deducted from funds of Federal origin are deducted in accordance with and pursuant to the authority of State law, there would be no objection to the deduction of an amount not in excess of that specified by Public No. 422 from funds received under the Acts of 1862 and 1890 as amended, for the payment of that portion of the State's contribution to the retirement system. That is to say, the facts as stated in your inquiry, i. e., that the retirement system is underwritten by the Teachers Insurance and Annuity Association and that the State has never heretofore met its payments into the system, would not necessarily preclude the use of a portion of the Federal funds in accordance with Public No. 422. However, for the purpose of determining whether all the necessary conditions are met to permit the contemplated deduction you should obtain a copy of the resolution of the Governing Board of the University of ..... authorizing the establishment of the system and a full statement of the maintenance and operation of the system, together with specifications as to the amounts and circumstances of the proposed deductions. This



statement should include reference to any opinion of the State Attorney General or other legal authority relative to the establishment and operation of the retirement system.

4. A State retirement system for teachers has been established in the State of . . . . ., which goes into effect July 1, 1940. Under its terms the teacher-employees of the . . . . . State College for Negroes may at option become members of the State system. May deductions authorized by the Act be legally made from grants of Federal funds for individual teachers where a voluntary retirement system of this character is operated either by a State, Territory or Governing Board of the College?

The . . . . . State retirement system for teachers which becomes operative July 1, 1940, was established by an Act of July 9, 1938 (1938 1st ex. s. c 1) as amended by an Act approved March 19, 1940. Under the Act as amended teachers at the . . . . . State College for Negroes are within the system and the provisions for voluntary coverage of the original Act have been removed. However, in our opinion the fact that a retirement system has voluntary coverage provisions would not preclude the use of funds of Federal origin in accordance with Public No. 422.

While there appears to be no doubt that the . . . . . State retirement system for teachers is established pursuant to and under the authority of State law, there is no clear authority under the State law for the use of any part of the fund received by the State under either the 1862 or the 1890 Act for contribution to or deposit in this retirement system. Accordingly, your Office should not approve deductions from these funds under Public No. 422 in the absence of an opinion of the Attorney General of . . . . ., or other competent legal authority of that State, holding that there is authority under the State law for such use of these funds.—*Opinion of the General Counsel of the Federal Security Agency, May 29, 1940.*

### Public Law 571 (1950)

[AN ACT To amend Veterans Regulation Numbered 1 (a) with respect to the computation of estimated costs of teaching personnel and supplies for instruction in the case of colleges of agriculture and the mechanic arts and other nonprofit educational institutions]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, effective as of December 28, 1945, paragraph 5 of part VIII of Veterans Regulation Numbered 1 (a), as amended, is amended by adding at the end thereof the following: "In the computation of such estimated cost of teaching personnel and supplies for instruction in the case of any college of agriculture and the mechanic arts, no reduction shall be made by reason of any payments to such college from funds made available pursuant to the Act entitled 'An Act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts', approved July 2, 1862, as amended and supplemented (U. S. C., 1946 edition, title 7, secs. 30-329, inclusive); and in the computation of such estimated cost of teaching per-*

sonnel and supplies for instruction in the case of any nonprofit educational institution, no reduction shall be made by reason of any payments to such institution from State or municipal or other non-Federal public funds, or from private endowments or gifts or other income from nonpublic sources."

SEC. 2. Upon receipt of appropriate claims therefor, the Administrator of Veterans' Affairs is authorized to make adjustments in accordance with this Act in contracts which are in effect on the date of approval of this Act as well as prior contracts and is authorized to make back payments and refunds in accordance with such adjustments.

Approved, June 23, 1950.



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## Land-Grant Colleges and Universities, 1951

- Alabama Polytechnic Institute, Auburn.
- \*Alabama Agricultural and Mechanical College, Normal.
- University of Alaska, College. (Territorial university)
- University of Arizona, Tuscon.
- University of Arkansas, Fayetteville.
- \*Agricultural, Mechanical, and Normal College, Pine Bluff, Arkansas.
- University of California, Berkeley.
- Colorado Agricultural and Mechanical College, Fort Collins.
- University of Connecticut, Storrs.

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\* Negro.

- University of Delaware, Newark.  
\*Delaware State College, Dover.
- University of Florida, Gainesville.  
\*Florida Agricultural and Mechanical College for Negroes, Tallahassee.
- University of Georgia, Athens.  
\*Fort Valley State College, Fort Valley, Georgia.
- University of Hawaii, Honolulu. (Territorial university)
- University of Idaho, Moscow.
- University of Illinois, Urbana.
- Purdue University, Lafayette, Ind.
- Iowa State College of Agriculture and Mechanic Arts, Ames.
- Kansas State College of Agriculture and Applied Science, Manhattan.
- University of Kentucky, Lexington.  
\*Kentucky State College, Frankfort.
- Louisiana State University and A. and M. College, Baton Rouge.  
\*Southern University and Agricultural and Mechanical College, Baton Rouge, Louisiana.
- University of Maine, Orono.
- University of Maryland, College Park.  
\*Maryland State College, Princess Anne.
- University of Massachusetts, Amherst.  
Massachusetts Institute of Technology, Cambridge.
- Michigan State College of Agriculture and Applied Science, East Lansing.
- University of Minnesota, Minneapolis.
- Mississippi State College, State College.  
\*Alcorn Agricultural and Mechanical College, Alcorn, Mississippi.
- University of Missouri, Columbia.  
\*Lincoln University, Jefferson City, Missouri.
- Montana State College, Bozeman.
- University of Nebraska, Lincoln.
- University of Nevada, Reno.
- University of New Hampshire, Durham.
- Rutgers University, New Brunswick, N. J.
- New Mexico College of Agriculture and Mechanic Arts, State College.
- Cornell University, Ithaca, N. Y.

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\* Negro.



State College of Agriculture and Engineering of the University of North Carolina, Raleigh.

\*Agricultural and Technical College of North Carolina, Greensboro.

North Dakota Agricultural College, State College (Fargo).

Ohio State University, Columbus.

Oklahoma Agricultural and Mechanical College, Stillwater

\*Langston University, Langston, Oklahoma.

Oregon State College, Corvallis.

Pennsylvania State College, State College.

University of Puerto Rico, Rio Piedras (Territorial university).

University of Rhode Island, Kingston.

Clemson Agricultural College, Clemson, South Carolina.

\*State Colored Normal, Industrial, Agricultural and Mechanical College of South Carolina, Orangeburg.

South Dakota State College of Agriculture and Mechanic Arts, Brookings.

University of Tennessee, Knoxville.

\*Tennessee Agricultural and Industrial State College, Nashville.

Agricultural and Mechanical Colleges of Texas, College Station.

\*Prairie View University, Prairie View, Texas.

Utah State Agricultural College, Logan.

University of Vermont and State Agricultural College, Burlington.

Virginia Polytechnic Institute, Blacksburg.

\*Virginia State College, Petersburg.

State College of Washington, Pullman.

West Virginia University, Morgantown.

\*West Virginia State College, Institute.

University of Wisconsin, Madison.

University of Wyoming, Laramie.

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\* Negro.